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CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
JODY L. WISE, CLERK

Exhibit 4



STATE OF ALABAMA
DEPARTMENT OF EDUCATION



Thomas R. Bice
State Superintendent of Education

**PRELIMINARY DECISION
ON THE PETITION FOR ADJUDICATION OF DISPUTED SEPARATION ISSUES
JOINTLY SUBMITTED BY THE GARDENDALE CITY BOARD OF EDUCATION
AND THE JEFFERSON COUNTY BOARD OF EDUCATION**

This document is a not a final determination of the issues presented. Its purpose is to solicit the respective views of the two Boards on the resolution proposed in this document. The Boards' comments in response are due by February 20, 2015. After considering those comments, this office will issue a final determination.

The Jefferson County Board of Education and the Gardendale City Board of Education submitted a Joint Petition for Adjudication of Disputed Separation Issues on November 18, 2014. The issues in dispute, which arise from the withdrawal of the City of Gardendale from the Jefferson County School System and the concomitant establishment of a new Gardendale City School System are, in summary form:

1. Whether the Gardendale City Board must pay the Jefferson County Board \$33,187,500.00 to enable the Jefferson County Board to provide replacement facilities for Jefferson County students who formerly attended schools in what is now the Gardendale City School System, or whether the needs of these students should be met through a transitional attendance plan, as proposed by the Gardendale City Board.
2. Whether the Jefferson County Board must continue to accept at the William E. Burkett Multi-Handicapped Center students who reside in the Gardendale City School System and are currently attending the Center.
3. Whether the Jefferson County Board must assign to the Gardendale City Board funds allocated to the Jefferson County Board from the Foundation Program in an amount equal to all salaries and benefits earned and federal employees assigned to Gardendale Schools as of the transfer date for the balance of the current fiscal year (i.e., through September of 2015).

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Answer to the First Question

The Jefferson County Board relies on *Ala. Code* § 16-8-20 as authority for claiming that a payment should issue from the Gardendale City Board. Although the creation of a new city school system is not directly addressed by the statute, the principle behind the statute, which makes financial obligations run with the land and facilities for which the financial obligations were occurred or to which they can reasonably be allocated, is a sound one, and should be recognized in this particular situation. Otherwise, the Gardendale City Board would receive a windfall at the expense of the Jefferson County Board.

For this reason, and pursuant to this office's authority to review the actions and orders of county and city boards of education and the parties' Joint Petition for Adjudication of Disputed Separation Issues, the Gardendale City Board shall pay to the Jefferson County Board the sum of **\$8,108,555.10**. That amount is based upon this office's determination of the proper allocation and balancing of resources between the two school systems, considering certain mitigating factors, including: (i) the period of time that Gardendale schools, including Gardendale High School, have served students currently in the Gardendale attendance zone; and (ii) the adoption of the Open Door Attendance Policy proposed by the Gardendale City Board, as modified herein.

The methodology utilized to calculate the payment due to the Jefferson County Board is as follows:

Total Jefferson County Grant/Bond Proceeds Allocated to Jefferson County Board	\$404,021,513.34
Imputed Percentage Share of Grant/Bond Proceeds to Gardendale City Board Based on 2005 Enrollment of 2,491 Gardendale Students Divided by 39,479 Total Jefferson County Students	6.31%
Approximate Cost of Gardendale High School and Reasonable Allocation of Other Extended Capital Improvements to Gardendale Schools	\$55,000,000.00
Imputed Share of Grant/Bond Proceeds to Gardendale City Board for Capital Outlay – Initial Grant	(\$25,493,757.49)
Imputed share of Grant/Bond Proceeds to Gardendale City Board for Capital Outlay – Summer 2014 Grant Proceeds	(\$497,687.41)

Credit for Expired Years of Service for Capital Investment in Gardendale Schools Through 2015	(\$6,600,000.00)
Credit Years for Open Door Attendance Policy, as modified	(\$14,300,000.00)
Amount due from Gardendale City Board:	\$8,108,555.10

In addition, the Open Door Attendance Policy (the "Policy") proposed by the Gardendale City Board is hereby adopted, subject to the following modifications:

First, the Policy shall be extended so as to allow, for a period of 10 years, a sibling (through blood, marriage, adoption, foster arrangement, or other legal means) of any student currently attending a Gardendale City School to attend a Gardendale City School through the sibling's graduation, provided that the student resides and continues to reside within the existing Gardendale attendance zone, which is shown on the attached map.

Second, the Policy shall be extended so as to allow, for a period of 5 years, any student (including siblings, as described above) who moves into the existing Gardendale attendance zone to attend a Gardendale City School through graduation, provided the student continues to reside within the existing Gardendale attendance zone.

Third, the Policy shall be extended so as to allow, for a period of 13 years, access to the Career Technical Center located at Gardendale High School by any student who resides in Jefferson County.

Under the Policy, the Gardendale City Board shall be entitled to a *pro rata* share of the 21.9 mills of district school taxes paid in Jefferson County's tax district for any non-Gardendale resident who opts to attend a Gardendale City School.

The parties should work out the terms of payment to the Jefferson County Board and any issues related to the implementation of the Open Door Attendance Policy, as modified, among themselves. If they are not able to, they may ask for the assistance of this office.

Answer to the Second Question

This matter has been resolved by the parties since the submission of the Joint Petition for Adjudication of Disputed Separation. Specifically, pursuant to the parties' respective submissions, the Gardendale City Board shall be responsible for the education of any Gardendale resident currently attending the William E. Burkett Multi-Handicapped Center.

Answer to the Third Question

By creating a separate school system, the Gardendale City Board assumed the obligation of paying the salaries and benefits of its employees, and it is not entitled to any portion of 2015 Foundation Program funds paid to the Jefferson County Board.

Statement Regarding Federal Desegregation Case

Any final decision of this office is subject to the United States District Court's jurisdiction in *Stout v. Jefferson Bd. of Educ.*, 2:65-cv-0396-MHH (N.D. Ala), which has the jurisdiction and authority to review and/or modify this office's final decision to ensure compliance with federal desegregation laws and the orders of that court.

Done this the 14th day of February, 2015.



THOMAS R. BICE
STATE SUPERINTENDENT OF EDUCATION